COURT NO.5

HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO.905 OF 2006 (M/S)

CIVIL SIDE

Uttaranchal Transport Corporation through its Regional Manager, Dehradun ..... PETITIONER

Versus

1. Deputy Labour Commissioner, Garhwal Region Dehradun
2. Roadways Karmchari Sanyukta parishad, Sahkha Hill Depot, District Dehradun through its secretary Sri Prem Singh Rawat. ..... RESPONDENTS

Sri A.N. Sharmal, Advocate for the petitioner.
Standing Counsel for the respondent no. 1

Dated: 17.7.2006

Hon'ble Rajesh Tandon, J.

Heard the learned counsel for the parties at length.

By the present writ petition the petitioner has prayed for a writ of certiorari quashing the order dated 2.6.2006 passed by the respondent no. 1.

Briefly stated the respondent no. 2 filed an application under section 33(c) (2) of U.P. Industrial Disputes Act and the labour Court allowed the application vide order dated 16.5.2001 and awarded a claim of Rs.19,07,704.34. The petitioner filed a writ being writ petition No. 3401 of 2001 (SS) which was

dismissed vide order date 28.10.2005. The order of this Court is quoted below:

"Before the learned Labour Court, the petitioner has accepted that recommendation of 5th Pay Commission is binding on the Corporation and according to the recommendation, the dues are payable to their employees. It was also accepted that the financial condition of the corporation is not good at present and as and when the financial condition will be improved, the dues shall be padi toa the employees. Keeping in view the facts and circumstances of the case, the Tribunal has rightly ordered to pay the amount of Rs.19,07,704.34 to the employee-workmen within a period of one month.

I do not find any force in the writ petition. The Labour Court has recorded the finding of fact, which does not call any interference.

The writ petition is devoid of merit and is dismissed. No order as to costs."

The respondent no. 2 filed an application under section 6 H (1) before the Additional Labour Commissioner Uttaranchal being numbered as Misc. Case No. 187 of 2000. The application was decided vide impugned order dated 2.6.2006 and the Deputy Labour Commissioner, has passed the following order:

"उक्त विवेचना के आधार पर मैं संतुष्ट हूँ कि माननीय श्रम न्यायालय देहरादून द्वारा औघोगिक विवाद अधिनियम 1947 की धारा 33 सी.2द्वा के अधीन विविध वाद संख्या 187/2000 दिनांक 16.5.2001 जिसकी पुष्टि माननीय उच्च न्यायालय उत्तरॉचल नैनीताल के रिट याचिका संख्या 3401/2001 में पारित आदेश दिनांक 28.10.2005 द्वारा की गयी है के अनुसार यूनियन द्वारा 19 दिसम्बर 2005 यथासंशेधित दिनांक 21.1.2006 में वर्णित 323 कर्मचारियों को पंचम वेतन आयोग की अनुशंसाओं के परिपालन में दिनांक 1. 1.1966 से 31.12.1968 तक की एरियर की राशि रु053,82,835.50 पैसे (रु0 तिरेपन

लाख व्यासी हजार आठ सौ पैंतीस एवं पचास पैसे मात्र) देय है और उ0 प्र0 औघोगिक विवाद अधिनियम 1947 की धारा 6 एच (1) के अधीन वसूली योग्य है।

अतः सेवायोजकों को निदेश दिये जाते हैं कि वे उक्त राशि का भुगताल श्रमिकों को एक माह के अन्दर श्रम न्यायालय देहरादून द्वारा अवधारित ब्याज सहित भुगतान करने का कष्ट करें। ”

The applicability of fifth pay commission has not been denied by the employer. However, the petitioner has disputed the next amount and has prayed that the same may be paid to the respondent no. 2 after computing the same.

In view of above, the respondents are directed to compute the amount within a period of six weeks and the same is directed to be paid to the employees concerned within 15 days thereafter along with the interest of 12% per annum as awarded by the laboure court and confirmed by this Court in writ petition No. 3401/2001 (SS).

Subject to the observation made above, the writ petition disposed of. No order as to costs.

Dated: 17.7.2006 **Rajesh Tandon, J.**

*Dhyani